Meeting of States Parties

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Report on common staff costs

(Presented by the Tribunal)

I. Introduction

1. The fourteenth Meeting of States Parties in June 2004 requested the International Tribunal for the Law of the Sea ("the Tribunal") "to keep under review the method used to assess common staff costs and to report on this matter at the next Meeting of States Parties".[1] The present report is prepared for consideration by the Meeting of States Parties pursuant to that request.

II. Method used to assess common staff costs

2. The United Nations has not so far determined a separate rate applicable to Hamburg in respect of standard salary costs. Therefore, the Tribunal has used The Hague as a comparator for the purpose of budgeting established posts and common staff costs since its inception in 1996.

3. Considering the small size of its Registry, the practice of the Tribunal for the financial periods from 1996 to 2004 was to apply the percentage fixed by the United Nations applicable to The Hague to the gross salary of staff members of the Tribunal in order to meet the actual needs of the Tribunal. On this basis, the Tribunal was able to meet its actual needs in respect of common staff costs for the financial periods from 1996 to 2004.[2]

4. In January 2004, the United Nations issued new standard salary costs, version 12, with a percentage of 41.14 applicable to The Hague. When this percentage was applied to the net salary in accordance with the United Nations practice, a provision amounting to €896,400 per annum was included in the budget proposals for the Tribunal for 2005-2006.[3] At the same time, on the basis of the projection of actual requirements for 2005-2006, Tribunal common staff costs for 2005-2006 were estimated at €927,938 per annum.[4]

5. Since there was no major difference between the figures obtained by projecting actual costs and the figures resulting from the percentage as applied to

the net salary, it was decided to apply the percentage applicable to The Hague to the net salary in budgeting common staff costs for 2005-2006.[5] This decision was taken by the fourteenth Meeting of States Parties on the understanding that the matter would be kept under review and that a report would be submitted by the Tribunal at the next Meeting of States Parties.

III. Performance of common staff costs in 2004

6. In June 2003, the thirteenth Meeting of States Parties approved an amount of US$ 932,100 to be appropriated as common staff costs of the Tribunal for 2004.

7. The interim performance of common staff costs for the financial period 2004 shows that an amount of US $1,013,102 was spent during 2004, leading to an overexpenditure of US$ 81,002 in this budget line. Since expenses in this budget line are incurred mostly in euros, the overexpenditure is largely due to the exchange rate fluctuations. Indeed, in 2004 the United States dollar further depreciated against the euro and the appropriations for 2004, calculated in dollars on the basis of the exchange rate in March 2003 (dollar/euro ratio of 0.929), were not sufficient to meet the expenditure in euros.

IV. Estimate for common staff costs in 2005-2006

8. When the Tribunal adopted in March 2004 the draft budget proposals for 2005-2006, the estimate for common staff costs per annum in 2005-2006 was computed, based on actual costs and anticipated requirements, as follows:[6]

Contribution to the United Nations Joint Staff Pension Fund	433 728.00
Dependency allowance	50 952.00
Education grant	88 000.00
Home leave	25 325.00
Language allowance	10 296.00
Accident at work insurance	15 000.00
Medical insurance	125 880.00
Rental subsidy	65 400.00
Provision for staff rotation:	
Professional category (6.5 per cent)	85 663.50
General Service category (3.1 per cent)	26 694.10
Miscellaneous (ex gratia payments, including cancellation of leave)	1 000.00
Total in euros:	**927 938.60**

9. On the basis of the new standard salary costs, version 20, issued by the United Nations, the common staff costs rate applicable to The Hague has been fixed at 47.52 per cent of net salary costs for 2005. When this percentage is applied to the net salary based on version 20, common staff costs per annum for 2005-2006 would be €1,025,952. This amount represents an increase of €129,552 per annum

compared to the appropriation level of common staff costs (€896,400) approved by the fourteenth Meeting of States Parties in June 2004.

10. However, taking into account the performance of common staff costs in 2004 and on the basis of a revised projection of actual costs for 2005 and the standard salary costs, version 20, it appears that the amount of common staff costs required for 2005 can be estimated as follows:

Contribution to the United Nations Joint Staff Pension Fund	463 001.00
Dependency allowance	52 437.00
Education grant	97 479.00
Home leave	34 530.00
Language allowance	12 600.00
Accident at work insurance	18 000.00
Medical insurance	62 254.00
Rental subsidy	50 087.00
Provision for staff rotation:	
Professional category (6.5 per cent)	87 133.00
General Service category (3.1 per cent)	25 373.00
Miscellaneous (ex gratia payments, including cancellation of leave)	1 000.00
Total in euros:	**903 894.00**

V. Conclusion

11. As shown in the latter table, the new estimate for common staff costs for 2005 amounts to €903,894. This is slightly higher by €7,444 compared to the appropriation approved for 2005 (€896,400). In light of this minimal difference, there seems to be no need to make adjustment to common staff costs for 2005. This matter could be reviewed, if necessary, in 2006.

Notes

[1] SPLOS/117, para. 6. See also SPLOS/119, para. 34.

[2] See SPLOS/2004/WP.1, para. 57.

[3] Ibid., para. 58.

[4] Ibid., paras. 58 and 59, and Annex X.

[5] Ibid., para. 60.

[6] Reproduced from Annex X to SPLOS/2004/WP.1.

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Budget performance for 2004

(Presented by the Registrar)

I. Report on action taken pursuant to the decision on budgetary matters for 2004 taken by the fourteenth Meeting of States Parties[1]

A. Introduction

1. The fourteenth Meeting of States Parties decided that "[i]n the event that the Tribunal is unable to meet approved expenditures for 2004 from appropriations made with respect to the budget lines 'Established posts' and 'Common staff costs'", the Registrar would be authorized "to incur expenditures to the extent that the shortfall in appropriations results from unforeseeable increases in daily subsistence allowance (DSA), salary costs and common costs, as applied within the United Nations common system" (SPLOS/118, para. 1). It also decided that "[i]n the event that the Tribunal is unable to meet approved expenditures for 2004 from appropriations made in the budget line 'Maintenance of premises'", the Registrar would be authorized "to incur expenditures to the extent that the shortfall in appropriations results from exchange rate fluctuations" (SPLOS/118, para. 2). It further authorized the Tribunal to finance such overexpenditures by transfers between appropriation sections as far as possible and, if necessary, by using the savings from the financial period 2002 up to US$ 500,000 (SPLOS/118, para. 3). The Meeting of States Parties also decided that the Registrar should report to the fifteenth Meeting of States Parties on any action taken pursuant to the decision.

B. Overexpenditures

2. As shown in the provisional expenditure report 2004 (see annex), expenditure under the section "Staff costs" in 2004 amounted to US$ 3,749,369. This exceeds

[1] The present report is submitted to the Meeting of States Parties in accordance with the decision of the Meeting of States Parties as contained in document SPLOS/118.

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the amount appropriated (US$ 3,276,600) by US$ 472,769. It may be noted, however, that the overexpenditure on the three budget lines "Established posts" (US$ 397,603), "Common staff costs" (US$ 104,057) and "Overtime" (US$ 1,124) was in part financed by savings (US$ 30,015) under the same section "Staff costs". The increase in expenditure relative to the amount appropriated under the approved budget for 2004 results from the factors referred to in document SPLOS/L.38 of 15 April 2004 (exchange rate fluctuations between the United States dollar and the euro and increases in the standard cost for staff and common staff costs, as applied within the United Nations common system). In particular, the appreciation of the euro against the United States dollar from 1.076 in March 2003, when the budget proposals for 2004 were prepared, to 1.326 in December 2004 has resulted in a level of expenditure with respect to staff costs that exceeds substantially the level of appropriations made in the budget 2004. As a consequence, the overexpenditure in the section "Staff costs" amounts to US$ 472,769.

3. Expenditure under the section "Miscellaneous services and charges (including bank charges)" in 2004 amounted to US$ 23,277 which exceeds the amount appropriated (US$ 20,000) by US$ 3,277. This overexpenditure resulted from the stronger euro against the United States dollar in the financial year 2004, compared to March 2003 when the budget proposals for 2004 were prepared (see para. 2 above). This overexpenditure remains, however, within the approved budget provision under the section "Operating expenditures" and was financed by savings from other budget lines under the same section.

4. It may be noted that expenditures in the budget lines "Special allowances" and "Judges' pension scheme" under the section "Remuneration of judges" amounted to US$ 376,506 and US$ 67,754. "Special allowances" exceed the amount appropriated (US$ 360,100) by US$ 16,406. This overexpenditure was mainly due to the increase in the daily subsistence allowance (DSA) rate applicable to Hamburg in relation to the appreciation of the euro against the United States dollar. "Judges pension scheme" exceeds the amount appropriated (US$ 67,700) by US$ 54, which is minimal. The overexpenditures in these two budget lines remain, however, within the approved budget provision under the section "Remuneration of judges" and were financed by savings from other budget lines under the same section.

5. It may also be noted that expenditure in the budget line "Overtime" in 2004 under "Case-related costs" amounted to US$ 18,815, which exceeds the amount appropriated (US$ 14,000) by US$ 4,815. This overexpenditure resulted from the greater overtime requirements during the *Juno Trader Case*, particularly during weekends in November and December 2004, as well as from the stronger euro against the United States dollar during the case in comparison to March 2003 when the budget proposals for 2004 were prepared (see para. 2 above). This overexpenditure could be financed by savings from the same section "Staff costs" under "Case-related costs".

C. Action taken by the Tribunal

6. In accordance with the decision of the Meeting of States Parties, the Tribunal at its nineteenth session decided to finance the overexpenditure for "Staff costs" (US$ 448,530) by transfer between appropriation sections as follows:[2]

Appropriation sections	*Appropriation*	*Expenditure*	*Difference before transfer*	*Transfer*	*Difference after transfer*
Staff costs	3 276 600	3 749 369	-472 769	472 769	0
Case-related costs (judges)	897 400	385 419	511 981	-472 769	36 212
Total US$	**4 174 000**	**4 134 788**	**39 212**	**0**	**39 212**

7. There was no need to finance the overexpenditure by using the savings from the financial period 2002.

II. Report on action taken pursuant to the Financial Regulations of the Tribunal

A. Investment of funds of the Tribunal

8. In respect of investment of funds of the Tribunal, regulation 9 of the Financial Regulations of the Tribunal, which became effective on 1 January 2004, stipulates as follows:

> "9.1 The Registrar may make prudent short-term investments of moneys not needed for immediate requirements and shall inform the Tribunal and the Meeting of States Parties periodically of such investments.
>
> "9.2 Income derived from investments shall be credited to miscellaneous income or as provided in the rules relating to each fund or account."

9. During the financial year 2004, the Tribunal's funds were kept in Deutsche Bank and Chase Bank as short-term investments, which "are investments made for less than 12 months", according to rule 109.1 of the Financial Rules of the Tribunal, which became effective 1 January 2005. The funds yielded interests that amounted to US$ 14,907.26 and €2,811.52 during 2004. These interests earned have been credited to miscellaneous income in accordance with regulation 9.2 of the Financial Regulations of the Tribunal.

B. Korea International Cooperation Agency trust fund

10. Korea International Cooperation Agency (KOICA) offered to provide a grant of US$ 150,000 pursuant to a memorandum of understanding signed between the Tribunal and the Agency on 9 March 2004. It is aimed at financing expenses of participants from developing countries in the Tribunal's internship programme.

[2] All figures are provisional.

11. In accordance with regulation 6.5 of the Financial Regulations of the Tribunal, a trust fund was subsequently established and a special euro bank account named "KOICA Grant" was created with Deutsche Bank for this purpose. When the funds amounting to US$ 150,000 were received from the Agency in March 2004, this amount was converted into €120,600 on the basis of the United States dollar/euro exchange rate of 0.804 fixed by the United Nations for March 2004.

12. The Tribunal submits the performance of the Korea International Cooperation Agency grant as of 31 December 2004 to the Meeting of States Parties in accordance with regulation 6.5 of the Financial Regulations of the Tribunal:

Korea International Cooperation Agency grant performance in euros

Opening balance	120 600.00
Gain on exchange	2 431.50
Total	**123 031.50**
Expenditure on participants and authorized activity	28 995.09
Bank charges	143.62
Bank balance	**93 892.79**
Unliquidated obligations	4 125.00
Available balance	**89 769.79**

Annex

Provisional expenditure report 2004

(Expressed in United States dollars)

	Part	Section	Objects of expenditure	Approved budget 2004	Disbursements	Unliquidated obligations	Expenditure	Balance	Total exp./ appr. Budget percentage	
1	I		**RECURRENT EXPENDITURE**							
2		1	**Remuneration of judges**	1 862 100			1 804 871	57 229		1
3			**Annual allowances**	1 298 300	1 241 560		1 241 560	56 740	95.63	2
4			Special allowances	360 100	376 506		376 506	-16 406	104.56	3
5			**Travel of judges to meetings**	130 000	114 142		114 142	15 858	87.80	4
6			Judges' pension scheme	67 700	67 754	0	67 754	-54	100.08	5
7			**Insurance scheme**	6 000	4 909		4 909	1 091	81.82	6
8		2	**Staff Costs**	3 276 686			3 749 389	-472 788		7
9			Established posts	2 073 600	2 427 556	43 647	2 471 203	-397 603	119.17	8
10			**Common staff costs**	932 100	998 770	40 387	1 039 157	-104 057	111.16	9
11			Overtime	21 000	21 738	386	22 124	-1 124	105.35	10
12			**Temporary assistance for meetings**	114 900	97 487		97 487	17 413	84.85	11
13			General temporary assistance	100 000	77 223	10 255	87 478	12 522	87.48	12
14			**Training**	35 000	32 234	2 686	34 920	80	99.77	13
15		3	**Representation allowance**	7 600	7 600	0	7 600	0	100.00	14
16		4	**Official travel**	98 700	74 170	5 517	79 687	11 013	87.85	15
17		5	**Hospitality**	7 100	6 972	0	6 972	128	98.20	16
18		6	**Operating expenditures**	1 415 798			1 383 466	32 295		17
19			Maintenance of premises (incl. facility management and contractual services)	1 032 000	960 019	66 472	1 026 491	5 509	99.47	18
20			**Rental & maintenance of equipment**	177 500	165 715	7 071	172 786	4 714	97.34	19
21			Communications	103 500	77 185	7 664	84 849	18 651	81.98	20
22			**Misc. services & charges (incl. bank charges)**	20 000	23 277	0	23 277	-3 277	116.39	21
23			Supplies and materials	65 000	54 953	8 848	63 801	1 199	98.16	22
24			**Special services (external audit)**	17 700	0	12 201	12 201	5 499	68.93	23
25		7	**Library & related costs**	175 000			170 949	4 051		24
26			**Library - procurement of books and publications**	120 000	91 969	27 036	119 027	973	99.19	25
27			External printing and binding	55 000	21 629	30 293	51 922	3 078	94.40	26
28										27
29	II		**NON-RECURRENT EXPENDITURE**							28
30		8	**Furniture and equipment**							29
31			Purchase of equipment	95 800	44 227	48 971	93 198	1 602	98.10	30
32										31
33	III		**CASE-RELATED COSTS**	1 109 200			555 980		50.12	32
34		9	**Judges**	697 400			385 419	311 981		33
35			Special allowances	716 800	0	324 131	324 131	392 669	45.22	34
36			**Compensation to judges ad hoc**	43 600	0		0	43 600	0.00	35
37			Travel to meetings, incl. judges ad hoc	137 000	47 511	13 777	61 288	75 712	44.74	36
38		10	**Staff Costs**	211 800			170 561	41 239		37
39			Temporary assistance for meetings	197 800	42 168	109 578	151 746	46 054	76.72	38
40			Overtime	14 000	0	18 815	18 815	-4 815	134.39	39
41		11	**Miscellaneous**	0	0		0	0		40
42										41
43	IV		**WORKING CAPITAL FUND**	0	0		0	0	0.00	42
44										43
45	IV		**TOTAL**	8 039 060	7 074 294	777 737	7 852 031	186 969	97.67	44